

## § 1942.105

official will notify the applicant, in writing, of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by Rural Development may be requested by the applicant in accordance with subpart B of part 1900 of this chapter. The following statement will also be made on all notifications of adverse action:

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income is derived from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

[52 FR 43726, Nov. 16, 1987, as amended at 54 FR 47197, Nov. 13, 1989; 55 FR 13504, Apr. 11, 1990; 68 FR 65830, Nov. 24, 2003; 68 FR 69001, Dec. 11, 2003]

### § 1942.105 Environmental review.

FmHA or its successor agency under Public Law 103-354 must conduct and document an environmental review for each proposed project in accordance with subpart G of part 1940 of this chapter. The review should be completed as soon as possible after receipt of an application. The loan approving official must determine an adequate environmental review has been completed before requesting an obligation of funds.

### § 1942.106 Intergovernmental review.

(a) Loans under this subpart are subject to intergovernmental review requirements set forth in U. S. Department of Agriculture regulations 7 CFR 3015, subpart V and RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's Web site.

(b) State intergovernmental review agencies that have selected community facility loans as a program they want to review may not be interested in reviewing proposed loans for fire and rescue facilities. In such cases, the State Director should obtain a letter from

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the State single point of contact exempting fire and rescue loans from intergovernmental consultation review. A copy of the letter should be placed in the case file for each fire and rescue facility application in lieu of completing the intergovernmental review process.

(c) When an application is filed and adverse comments are not expected, the District Director should proceed with application processing pending intergovernmental review. The loan should not be obligated until any required review process has been completed.

(d) Funds allocated for use under this subpart are also for the use of eligible Indian tribes within the State, regardless of whether State development strategies include Indian reservations. Eligible Indian tribes must have equal opportunity to participate in the program as compared with other residents of the State.

[52 FR 43726, Nov. 16, 1987, as amended at 61 FR 6309, Feb. 20, 1996; 76 FR 80730, Dec. 27, 2011]

### § 1942.107 Priorities.

(a) Eligible applications must be selected for processing in accordance with § 1942.17(c) of subpart A of this part 1942.

(b) The District Director must score each eligible application in accordance with § 1942.17(c)(2)(iii) of subpart A of this part 1942. The District Director must then notify the State Director of the score, proposed loan amount, and other pertinent data. The State Director should determine as soon as possible if the project has sufficient priority for further processing and notify the District Director. Normally, this consultation should be handled by telephone and documented in the running record.

(c) Applicants who appear eligible but do not have the priority necessary for further consideration at this time should be notified that funds are not available, requested to advise whether they wish to have their application maintained for future consideration and given the following notice:

You are advised against incurring obligations which would limit the range of alternatives to be considered, or which cannot be

fulfilled without FmHA or its successor agency under Public Law 103-354 funds until the funds are actually made available. Therefore, you should refrain from such actions as initiating engineering and legal work, taking actions which would have an adverse effect on the environment, taking options on land rights, developing detailed plans and specifications, or inviting construction bids until notified by Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 to proceed.

**§ 1942.108 Application docket preparation and review.**

(a) *Guides.* Application dockets should be developed in accordance with § 1942.2(c) of subpart A of this part 1942.

(b) [Reserved]

(c) *Budgets.* All applicants must complete Form FmHA or its successor agency under Public Law 103-354 442-7, "Operating Budget," except as provided in this paragraph. Applicants with annual incomes not exceeding \$100,000 may, with concurrence of the District Director, use Form FmHA or its successor agency under Public Law 103-354 1942-52, "Cash Flow Projection," instead of Form FmHA or its successor agency under Public Law 103-354 442-7. Projections should be provided for the current year and each year thereafter until the facility is expected to have been in operation for a full year and a full annual installment paid on the loan.

(d) *Letter of conditions.* The District Director should prepare and issue a letter of conditions in accordance with § 1942.5 (a)(1) and (c) of subpart A of this part 1942.

(e) *Organizational review.* As early in the application process as practical, the approval official should obtain copies of organization documents from each applicant and forward them through the State Office to the Regional Attorney for review and comments. The Regional Attorney's comments should be received and considered before obligation of funds.

(f) *National Office review.* Applications that require National Office review will be submitted in accordance with § 1942.5(b) of subpart A of this part 1942.

(g) *State Office review.* The State Office must monitor fire and rescue and other small community facility project loanmaking and servicing and provide

guidance, assistance, and training as necessary to ensure the activities are accomplished in an orderly manner consistent with the Agency's regulations. The processing office should request advice and assistance from the State Office as needed. The State Director may require all or part of a specific application docket to be submitted to the State Office for review at any time. The State Director may determine that one or more of the processing office staffs do not have adequate training and expertise to routinely complete application dockets without State Office review. In such cases, the State Director should establish guidelines by memorandum or by State supplement to the subpart for the necessary State Office reviews.

(h) *Loan approval and fund obligation.* Loans must be approved and obligated in accordance with § 1942.5(d) of subpart A of this part 1942 and subpart A of part 1901 of this chapter.

[52 FR 43726, Nov. 16, 1987, as amended at 54 FR 47197, Nov. 13, 1989; 67 FR 60854, Sept. 27, 2002; 68 FR 65830, Nov. 24, 2003]

**§§ 1942.109-1942.110 [Reserved]**

**§ 1942.111 Applicant eligibility.**

(a) *General.* Loans under this subpart are subject to the provisions of § 1942.17(b) of subpart A of this part 1942.

(b) *Credit elsewhere determinations.* The approval official must determine whether financing from commercial sources at reasonable rates and terms is available. If credit elsewhere is indicated, the approval official should inform the applicant and recommend the applicant apply to commercial sources for financing. To provide a basis for referral of only those applicants who may be able to finance projects through commercial sources, approval officials should maintain liaison with representatives of lenders in the area. The State Director should keep approval officials informed regarding lenders outside the area who might make loans in the area. Approval officials should maintain criteria for determining applications that should be referred to commercial lenders and